

EXHIBIT A

1 UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF NEW YORK
3 -----

4 **BLACK LOVE RESISTS IN THE RUST, et al.,**
5 **individually and on behalf of a class of**
6 **all others similarly situated,**

7 Plaintiffs,

8 -vs-

1:18-cv-00719-CCR

9 **CITY OF BUFFALO, N.Y., et al.,**

10 Defendants.
11 -----

12 **EXAMINATION BEFORE TRIAL OF JOSEPH GRAMAGLIA**

13 **APPEARING REMOTELY FROM**

14 **ERIE COUNTY, NEW YORK**
15

16 September 22, 2023

17 9:05 a.m. - 5:15 p.m.

18 pursuant to notice
19

20
21 REPORTED BY:

22 Carrie A. Fisher, Notary Public

23 APPEARING REMOTELY FROM ERIE COUNTY, NEW YORK

-----**DEPAOLO CROSBY REPORTING SERVICES, INC.**-----

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R E M O T E A P P E A R A N C E S

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ALSO PRESENT:

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National Center for Law
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—DEPAOLO CROSBY REPORTING SERVICES, INC.—

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JOSEPH GRAMAGLIA

1 that authorization but, you know, you still
2 have to keep that in there for, you know, some
3 safety reasons. You know, there could
4 hypothetically be an escaped prisoner where
5 you have to set up traffic checkpoints. If
6 you could pull up the section of the language
7 and read it more specifically but, you know,
8 having something in there and the
9 authorizations that are required are two
10 different things.

11 Q. Okay. But under the MOP you could restart
12 those traffic safety checkpoints at any time,
13 right?

14 A. I'd have the authorization. I could, yes.

15 Q. Does the BPD conduct performance evaluations
16 of officers?

17 A. Contractually we're not able to, no. That's a
18 subject of union negotiations.

19 Q. Okay. And -- yeah, maybe I will come back to
20 that in a little bit. So aside from
21 performance evaluations, does the BPD evaluate
22 officers' performance in any way?

23 A. No. Subject to the union negotiations, we're

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1 not contractually allowed to do evaluations.

2 Q. Do you think that instituting performance
3 evaluations would promote better training and
4 supervision of officers?

5 MR. RUSS: Objection to form. You may
6 answer.

7 A. I do. We're -- it's no secret in the
8 department that we are trying to get that.

9 Q. And the performance evaluations are actually
10 required in order for the BPD to preserve its
11 accreditation, right?

12 A. So we have a waiver from New York State
13 because it's outside of our control.

14 Q. But the waiver was only for a certain period
15 of time, right, and the waiver will expire?

16 A. No, we would have to again apply. We maintain
17 that application for a waiver so we are still
18 accredited and we are in compliance with our
19 accreditation.

20 Q. The contract is under negotiation now?

21 A. Yeah, the -- the last agreed upon contract
22 expired June 30th of 2019. It went into
23 binding interest arbitration which was settled

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1 last year which was only two years so it
2 covered from July 1st of '19 to June 30th of
3 '21. So by the time it was settled, it was
4 already expired in itself so we are expired
5 again and moving towards arbitration again.

6 Q. Okay. And that particular arbitration that
7 results in pay raises for officers but no
8 performance evaluations, right?

9 A. Correct. That was the arbitrator's decision.

10 Q. Is the City currently seeking to get
11 performance evaluations during the new
12 contract and negotiations?

13 A. We did in the negotiation stage, but now that
14 we are at the mediation stage I don't know
15 what I'm allowed to discuss on mediation.
16 There's rules of mediation that, forgive me, I
17 don't know what we're allowed to discuss
18 because we're in mediation, but I will say
19 that when we were actively negotiating with
20 the union we were -- that was one of the
21 things that we put on the table is performance
22 evaluations.

23 Q. The city charter gives you as commissioner the

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1 power and duty to govern and discipline
2 officers, right?

3 A. Well, the contractual agreement and
4 contractual language sets forth the policy and
5 procedures of discipline. So whether or not I
6 could on my own invoke some form of
7 discipline, I will lose that to an arbitrator
8 and an arbitrator has all authority by
9 contract between the union and the City and
10 it's been that way for decades. I don't know
11 when that agreement was signed, but it goes
12 back a long way.

13 Q. So you believe that the collective bargaining
14 agreement supersedes any rights that you have
15 under the city charter to govern and
16 discipline officers?

17 MR. RUSS: Objection to form. You may
18 answer.

19 A. With relation to discipline, yes. There's
20 contractual language on how that process plays
21 out.

22 Q. Does the BPD have an early warning system to
23 identify officers who engage in problematic

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